

**MEMORANDUM**

TO: District of Columbia Zoning Commission

FROM: Maxine Brown-Roberts, Project Manager
Joel Lawson, Associate Director Development Review

DATE: June 5, 2012

SUBJECT: Extension and Waiver Request – BZA 17679-C

RECOMMENDATION

The Office of Planning recommends approval of the requested two-year extension of BZA Order 17753-C.

SUMMARY TABLE

Applicant:	Jemal's TP Land, LLC
Address:	6923-6953 Maple Street, NW and 6916-6926 Willow Street, NW (Square 3357, Lots 26-29, 40, 808, 811, 814, 815, 818-820, 824, 825, 840, and 843)
Ward/ANC/Historic District:	Ward 4, ANC 4B, Takoma Park Historic District
Project Summary:	Two, 3-story multifamily buildings, each with 38 units, and the relocation of the three single-family detached units from their current locations on the site. The multifamily buildings would have a combination of one and two bedrooms units
Order Effective Date:	April 23, 2008
Previous Extension:	Effective, April 23, 2010
Order Expiration Date:	April 23, 2012

**PHOTO OF SITE AT TIME OF BZA APPROVAL****EXISTING CONDITIONS**

EVALUATION OF THE EXTENSION REQUEST

Section 3130.6 allows for one extension of a Board of Zoning Adjustment (BZA) approval time periods (two years in this case). The applicant was granted a two-year extension which expired on April 23, 2012 and has requested a waiver to be granted a second extension. The application is also requesting a waiver of Section 3130.9 which requires that extension requests be filed at least 30 days prior to the date of expiration. The application was filed on April 20, 2012, three days prior to the April 23, 2012 expiration date. The requests for both waivers are at the discretion of the BZA.

Section 3130.6 further allows that if “good case” is shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Board of Zoning Adjustment determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond.**

The application submitted to the BZA is dated April 20, 2012 and has been in the public record since filing.

- (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the commission’s justification for approving the original application; and**

The property retains its R-5-A zone designation and the recommendations of the Comprehensive Plan. The applicant has not made and has not proposed any changes to the requested special exceptions.

- (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:**

- (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant’s reasonable control;**
- (2) An inability to secure all required governmental agency approvals by the expiration date of the Board’s order because of delays that are beyond the applicant’s reasonable control; or**
- (3) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant’s reasonable control.**

Behind Tab D of the applicant’s submission is a sworn statement in which they state that a portion of the property is encumbered by a securitized loan which matures in 2013 and the lender is unwilling to release that portion of the property and allow the development to proceed. The applicant states that due to the downturn in residential market conditions since the approval of the project in 2008 they are unable to pay off the loan prior to its maturity date in 2013. Therefore, due to the encumbrance and market conditions they are unable to proceed with the development. The applicant states that they envision that with the maturity of the loan, financing may be attainable and the development can proceed.

OP believes that the applicant has met the requirements of Section 3103.6 and recommends that the requested two-year extension be granted.